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Attorneys for Plaintiff
Israel Modesto Martinez

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ISRAEL MODESTO MARTINEZ,)	Case No.: 2:22-cv-02044-AC
Plaintiff,)	STIPULATION AND PROPOSED
vs.)	ORDER FOR THE AWARD AND
MARTIN O'MALLEY,)	PAYMENT OF ATTORNEY FEES
Commissioner of Social Security,)	AND EXPENSES PURSUANT TO
Defendant.)	THE EQUAL ACCESS TO JUSTICE
)	ACT, 28 U.S.C. § 2412(d) AND
)	COSTS PURSUANT TO 28 U.S.C. §
)	1920

TO THE HONORABLE ALLISON CLAIRE, MAGISTRATE JUDGE OF
THE DISTRICT COURT:

IT IS HEREBY STIPULATED, by and between the parties through their undersigned counsel, subject to the approval of the Court, that Israel Modesto Martinez ("Modesto Martinez") be awarded attorney fees and expenses in the amount of four thousand three hundred twenty-six dollars and eleven cents (\$4,326.11) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents compensation for all

1 legal services rendered on behalf of Plaintiff by counsel in connection with this
2 civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

3 After the Court issues an order for EAJA fees to Modesto Martinez, the
4 government will consider the matter of Modesto Martinez's assignment of EAJA
5 fees to Matthew F. Holmberg. The retainer agreement containing the assignment
6 is attached as exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010),
7 the ability to honor the assignment will depend on whether the fees are subject to
8 any offset allowed under the United States Department of the Treasury's Offset
9 Program. After the order for EAJA fees is entered, the government will determine
10 whether they are subject to any offset.

11 Fees shall be made payable to Modesto Martinez, but if the Department of
12 the Treasury determines that Modesto Martinez does not owe a federal debt, then
13 the government shall cause the payment of fees, expenses and costs to be made
14 directly to Law Offices of Lawrence D. Rohlffing, Inc., CPC, pursuant to the
15 assignment executed by Modesto Martinez.¹ Any payments made shall be
16 delivered to Matthew F. Holmberg.

17 This stipulation constitutes a compromise settlement of Modesto Martinez's
18 request for EAJA attorney fees, and does not constitute an admission of liability on
19 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
20 shall constitute a complete release from, and bar to, any and all claims that
21 Modesto Martinez and/or Matthew F. Holmberg including Law Offices of
22 Lawrence D. Rohlffing, Inc., CPC may have relating to EAJA attorney fees in
23 connection with this action.

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25 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

1 This award is without prejudice to the rights of Matthew F. Holmberg and/or
2 the Law Offices of Lawrence D. Rohlring, Inc., CPC to seek Social Security Act
3 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of
4 the EAJA.

5 DATE: March 27, 2024 Respectfully submitted,

6 LAW OFFICES OF LAWRENCE D. ROHLRING, INC., CPC

7 /s/ *Matthew F. Holmberg*²

8 BY:

Matthew F. Holmberg
Attorney for plaintiff Israel Modesto Martinez

10 DATED: March 27, 2024

11 PHILLIP A. TALBERT
United States Attorney
12 MATHEW W. PILE
Associate General Counsel
13 Social Security Administration

14 /s/ *Kendall Rees*

15
16 KENDALL REES
Special Assistant United States Attorney
17 Attorneys for Defendant
MARTIN O'MALLEY, Commissioner of Social
18 Security (Per e-mail authorization)

19 **ORDER**

20 Approved and so ordered:

21 DATE: April 1, 2024

22 *Allison Claire*
23 ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

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25 ² Counsel for the plaintiff attests that all other signatories listed, and on whose
26 behalf the filing is submitted, concur in the filing's content and have authorized the
filing.

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